

BILL NO. 93-08-07 (AS AMENDED)

GENERAL ORDINANCE NO. 9-28-93

AN ORDINANCE of the Common Council
of the City of Fort Wayne, Indiana
Amending Chapter 157 of the Municipal
Code of the City of Fort Wayne.

WHEREAS, Chapter 157 of the Municipal Code of the City of
Fort Wayne, Indiana is in need of amendment:

NOW THEREFORE, BE IT ORDAINED by the Common Council of
the City of Fort Wayne, Indiana, that Chapter 157 of the
Municipal Code of the City of Fort Wayne is hereby amended as
follows:

SECTION 1. Delete Section 157.033 (F) (3) (d) 3 in its
entirety.

SECTION 2. Insert the following as Section 157.033 (F)
(3) (d) 3:

Permitted uses includes all B-2-B uses and additionally
hotels, motels, private lodges or clubs, and house
accessory display or sales store.

SECTION 3. Delete Section 157.033 (F) (2) in its
entirety.

Section 4. Insert the following as Section 157.033 (F)
(2).

(2) Purpose. The B2 (Planned Shopping) District is
established in order to encourage the provision of
adequate commercial facilities at an appropriate location
and of an appropriate design, scale and intensity which
will create a harmonious and functional relationship with
the immediate surroundings and community. In reviewing
the proposed B2 District, the Commission will consider
the nature of the proposed use, the total size of the
proposed project and the composition of all existing
development and zoning in the vicinity of the proposed B2
District. Traffic generation, both pedestrian and
vehicular, and its impact on surrounding streets and
highways will also be of major importance in the
Commission's review process. Each proposed shopping
center as well as expansion of existing centers will be
evaluated in accordance with the goals and objectives of
the comprehensive plan. The B2 District is intended to
be utilized by a harmonious arrangement of different
establishments or businesses that will serve the
community, or by a single business or use when such
business or use satisfies the purpose of this
classification.

SECTION 5. That this Ordinance shall be in full force
and effect from and after its passage and approval by the
Mayor.

Councilmember

APPROVED AS TO FORM AND LEGALITY:

1 J. TIMOTHY MCCAULAY, CITY ATTORNEY
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BILL NO. G-93-08-07

GENERAL ORDINANCE NO. G-_____

AN ORDINANCE of the Common Council
of the City of Fort Wayne, Indiana
Amending Chapter 157 of the Municipal
Code of the City of Fort Wayne.

WHEREAS, Chapter 157 of the Municipal Code of the City of
Fort Wayne, Indiana is in need of amendment:

NOW THEREFORE, BE IT ORDAINED by the Common Council of
the City of Fort Wayne, Indiana, that Chapter 157 of the
Municipal Code of the City of Fort Wayne is hereby amended as
follows:

SECTION 1. Delete Section 157.033 (F) (3) (d) 3 in its
entirety.

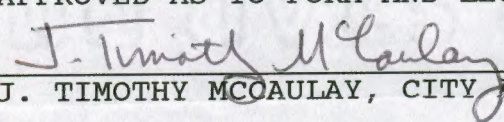
SECTION 2. Insert the following as Section 157.033 (F)
(3) (d) 3:

Permitted uses includes all B-2-B uses and additionally
hotels, motels, private lodges or clubs, and house
accessory display or sales store.

SECTION 3. That this Ordinance shall be in full force
and effect from and after its passage and approval by the
Mayor.


Councilmember

APPROVED AS TO FORM AND LEGALITY:


J. TIMOTHY MCCAULAY, CITY ATTORNEY

Read the first time in full and on motion by Barrie,
and duly adopted, read the second time by title and referred to the
Committee on regulations (and the City Plan Commission
for recommendation) and Public Hearing to be held after due legal notice, at
the Common Council Council Conference Room 128, City-County Building, Fort
Wayne, Indiana, on _____, the _____ day of
_____, 19_____, at _____ o'clock

M., E.S.T.

DATED: 8-10-93

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Barrie,
and duly adopted, placed on its passage. PASSED LOST
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>7</u>			<u>2</u>
BRADBURY	<u>✓</u>			
EDMONDS	<u>✓</u>			
GIAQUINTA	<u>✓</u>			<u>✓</u>
HENRY				<u>✓</u>
LONG				
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 9-14-93

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)

(SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. 9-28-93

on the 14th day of September, 1993

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Mark C. GiaQuinta
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 16th day of September, 1993,
at the hour of 10:00 o'clock PM, M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 16th day of September,
1993, at the hour of 9:00 o'clock PM, M., E.S.T.

P. Helmke
PAUL HELMKE, MAYOR

RESOLUTION OF ZONING ORDINANCE TEXT AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on August 10, 1993 referred a proposed text amendment which proposed amendment was designated as Bill No. Z-93-08-07; and,

WHEREAS, the required notice of public hearing on such proposed amendment has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed amendment on August 16, 1993.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this amendment be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held August 23, 1993.

Certified and signed this
24th day of August 1993.



Robert Hutner
Secretary

#5-16
ORIGINAL

ORIGINAL

DIGEST SHEET

TITLE OF ORDINANCE Zoning Ordinance Amendment

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE Would allow house accessory display or sales store in planned Metropolitan Shopping Centers or Regional Shopping Centers.

B-93-08-07
(As amended)

EFFECT OF PASSAGE Expands permitted uses in B-2-C and B-2-D districts.

EFFECT OF NON-PASSAGE House accessory displays or sales would only be permitted in B-3 or higher districts.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) None

(ASSIGN TO COMMITTEE) _____

FACT SHEET

Z-93-08-07

BILL NUMBER

**Division of Community
Development & Planning**

BRIEF TITLE

APPROVAL DEADLINE

REASON

Zoning Ordinance Amendment

DETAILS**POSITIONS****RECOMMENDATIONS**

Specific Location and/or Address N/A
Reason for Project Expands permitted uses in the B-2-C and B-2-D Districts.
Discussion (Including relationship to other Council actions) <u>16 August 1993 - Public Hearing</u> See attached minutes of meeting. <u>23 August 1993 - Business Meeting</u> Motion was made and seconded to return the ordinance to the Common Council as amended. Of the five (5) members present, five (5) voted in favor of the motion. Motion carried.

Sponsor	City Plan Commission
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) Land Use Management - C&ED City Department Other
Opponents	Groups or Individuals Basis of Opposition
Staff Recommendation	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against
Board or Commission Recommendation	By <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start

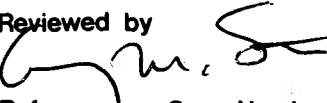
Date 2 August 1993

Projected Completion or Occupancy

Date 24 August 1993

Fact Sheet Prepared by
Patricia Biancaniello

Date 24 August 1993

Reviewed by

Reference or Case Number

Date 8/25/93

- a. Bill No. Z-93-08-07 - Ordinance Amendment #545
Chapter 157 - Section 157.033 (F) (3) (d) 3 - Permitted
Uses includes all B3B uses and additionally hotels,
motels, private lodges or clubs, and house accessory
display or sales store.

Wayne O'Brien, staff planner with C&ED appeared before the Commission. Mr. O'Brien stated that from time to time the staff is asked to look at a specific use and to reevaluate where that use would fit into the Zoning Ordinance. He stated that one of the uses that has come up recently is a "house accessory display or sales store". He stated that the staff has looked at the issue because it currently is classified in the Ordinance in the B3 section. He stated that after an extensive evaluation at the staff level, it was the staff's suggestion that a "house accessory display or sales store" is appropriate use in a B-2-C or B-2-D. These are both planned shopping centers, the one (B2C) being a Metropolitan the other (B2D) being a Regional Shopping Center. He stated that concurrent with that they had a request from a local attorney, Jim Federoff, for the staff to look at the purpose section of the B-2, that the existing language could be interpreted to say that we are looking at a blend of mixed uses, not allowing the possibility of a singular use. The policy of the Plan Commission and the policy of the planning staff, historically has been to allow single uses when appropriate within the classification. He stated that examples of that would be the Meijer development, which is a B2D located at Getz & Illinois Road. Also, the first phase of Apple Glen is a singular Wal-Mart store. He stated that they have taken the position that a singular use is appropriate in a B2, when the use meets the overall intent of providing the multiple services, the multiple goods to the consuming public. With that they have a letter that was included in the agenda signed by Mr. Gregg LaMar, Director of C&ED which brings up the reference to Mr. Federoff's language. He stated that staff has worked with Mr. Federoff and they have proposed the addition of the paragraph that is in the letter from Mr. LaMar. He stated it will allow not only the existing language for the harmonious arrangement of different establishments or businesses that will serve the community but also adds the language whereby a single business or use, when such business or use, satisfies the purpose of the classification. He stated that they are suggesting to the Plan Commission that both the home accessory display and sales store is an appropriate use for the B2C & B2D, or higher classifications, and the staff is also in agreement with Mr. Federhoff that they would like to clean up the language in the purpose section, so that clearly the Plan Commission and the staff are in the position where they can wholeheartedly endorse development of a planned shopping center, either for a singular user or for a blend of users.

Dave Ross questioned that when the staff did their classifications do they also consider the size of the use and the trip generations or is it based upon the definition of the use.

Mr. O'Brien stated that at this point the size of the individual store is not regulated by the Ordinance. He stated that trip generations and size of store would come more into an actual review of the site plan. He stated that what the staff is typically looking at is for example the difference between a B-1-B and a B-3. B-1 is intended to be a Limited Business District where B-3 is a General Business District. He stated that the staff could give you the argument that the B-1 uses, because they are limited, are typically established in areas to serve predominantly the residents in the area, the drive by public. He stated that they are not typically uses that would draw people from across town. In the B-3 we do allow uses like the auto sales, where if an auto dealer is going to try and exist on the commerce from one neighborhood, he probably is not going to do well. He needs to be able to draw from a much larger marketing area. He stated that since the B-2 districts are shopping centers, we are looking at not only a primary draw market, but also a secondary draw market. He stated that secondary draw market would be pretty extensive. In the case of the B-2-D they are looking at secondary markets that will extend into Michigan, Ohio and Illinois.

James Federoff, attorney appeared before the Commission on behalf of Lowe's Companies Inc. He stated he was there to speak on behalf of the text amendment. He stated that he felt the text amendment will eliminate any doubt in everyone's mind whether Lowe's can go into a shopping center.

There was no one else who spoke in favor of or in opposition to the proposed amendment.

BILL NO. Z-93-08-07 (as amended)

REPORT OF THE COMMITTEE ON
REGULATIONS

DAVID C. LONG & REBECCA J. RAVINE - CO-CHAIRPERSONS
LUNSEY, SCHMIDT

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) of the Common Council
of the City of Fort Wayne, Indiana amending Chapter 157 of the
Municipal Code of the City of Fort Wayne

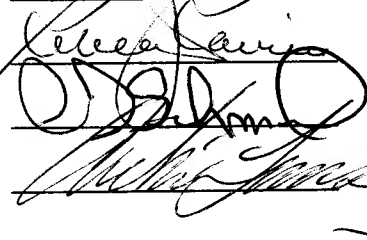
HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO. PASS

DO NOT PASS

ABSTAIN

NO REC

DATED: 9-14-93

Sandra E. Kennedy
City Clerk